

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed by the House on May 9, 2003: Yeas 122, Nays 4, 2 present, not voting; passed by the Senate on May 28, 2003: Yeas 31, Nays 0.

Approved June 18, 2003.

Effective June 18, 2003.

CHAPTER 226

H.B. No. 555

AN ACT

relating to notice requirements for certain portable facilities under the Clean Air Act.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 382.056, Health and Safety Code, is amended by amending Subsection (r) and adding Subsection (s) to read as follows:

(r) This section does not apply to:

(1) the relocation or change of location of a portable facility to a site where a *portable* facility ~~[permitted by the commission is located if no portable facility]~~ has been located at the proposed site at any time during the previous two years; or

(2) a facility located temporarily in the right-of-way, or contiguous to the right-of-way, of a public works project.

(s) *For any permit application subject to this section, the measurement of distances to determine compliance with any location or distance restriction required by this chapter shall be taken toward structures that are in use as of the date that the application is filed with the commission.*

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

Passed by the House on March 18, 2003: Yeas 148, Nays 0, 1 present, not voting; the House refused to concur in Senate amendments to H.B. No. 555 on May 20, 2003, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 555 on May 31, 2003: Yeas 147, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 12, 2003: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 555 on May 31, 2003: Yeas 30, Nays 0.

Approved June 18, 2003.

Effective June 18, 2003.

CHAPTER 227

H.B. No. 599

AN ACT

relating to the continuation and functions of the State Bar of Texas and to conflicts of interest with respect to certain persons engaged in the practice of law.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 81.003, Government Code, is amended to read as follows:

Sec. 81.003. SUNSET PROVISION. The state bar is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, this chapter expires September 1, 2015 [2003].

SECTION 2. Section 81.019(c), Government Code, is amended to read as follows:

(c) The election rules must permit any member's name to be printed on the ballot as a candidate for president-elect if a written petition requesting that action and signed by at least five percent of the membership of the state bar is filed with the executive director at least 30 days before the election ballots are to be *distributed* [mailed] to the membership.

SECTION 3. Sections 81.020(c) and (f), Government Code, are amended to read as follows:

(c) Elected members serve three-year terms. Nonattorney members serve staggered terms of the same length as terms of elected board members. The supreme court shall annually appoint two nonattorney members, with at least one of the two from a list of at least five names submitted by the governor. ~~Appointments to the board [In making the appointments the supreme court and the governor must attempt to ensure full and fair representation of the general public, including women, minorities, and retired persons who are at least 55 years of age. Each appointment]~~ shall be made without regard to the race, color, disability [ereed], sex, religion, age, or national origin of the appointees. A person who has served more than half of a full term is not eligible for reappointment to the board.

(f) The board of directors shall develop and implement policies that clearly separate [define] the [respective] responsibilities of the board and the *management responsibilities of the executive director and the staff of the state bar.*

SECTION 4. Subchapter B, Chapter 81, Government Code, is amended by adding Sections 81.0201 and 81.0215 to read as follows:

Sec. 81.0201. TRAINING PROGRAM FOR BOARD MEMBERS. (a) *A person who is elected or appointed to and qualifies for office as a member of the board of directors may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.*

(b) *The training program must provide the person with information regarding:*

- (1) *the legislation that created the state bar and the board;*
- (2) *the programs operated by the state bar;*
- (3) *the role and functions of the state bar;*
- (4) *the rules of the state bar, with an emphasis on the rules that relate to disciplinary and investigatory authority;*
- (5) *the current budget for the state bar;*
- (6) *the results of the most recent formal audit of the state bar;*
- (7) *the requirements of:*
 - (A) *the open meetings law, Chapter 551;*
 - (B) *the public information law, Chapter 552; and*
 - (C) *other laws relating to public officials, including conflict-of-interest laws; and*
- (8) *any applicable ethics policies adopted by the state bar or the Texas Ethics Commission.*

Sec. 81.0215. STRATEGIC PLAN. (a) *The state bar shall develop a comprehensive, long-range strategic plan for its operations. Each even-numbered year, the state bar shall issue a plan covering five fiscal years beginning with the next odd-numbered fiscal year.*

(b) *The strategic plan must include measurable goals and a system of performance measures that:*

- (1) *relates directly to the identified goals; and*
- (2) *focuses on the results and outcomes of state bar operations and services.*

(c) *Each year, the state bar shall report the performance measures included in the strategic plan under this section to the supreme court and the editor of the Texas Bar Journal for publication.*

SECTION 5. Section 81.022, Government Code, is amended by adding Subsections (a-1) and (e) to read as follows:

(a-1) *In developing and approving the annual budget, the state bar and supreme court shall:*

(1) *consider the goals and performance measures identified in the strategic plan developed under Section 81.0215; and*

(2) *identify additional goals and performance measures as necessary.*

(e) *After implementing a budget approved by the supreme court, the state bar shall report to the court regarding the state bar's performance on the goals and performance measures identified in the strategic plan developed under Section 81.0215. The state bar shall:*

(1) *revise the goals and performance measures as necessary; and*

(2) *notify the supreme court of the revisions.*

SECTION 6. Sections 81.024(c) and (d), Government Code, are amended to read as follows:

(c) When the supreme court has prepared and proposed rules or amendments to rules under this section, the court shall *distribute* ~~[mail]~~ a copy of each proposed rule or amendment in ballot form to each registered member of the state bar for a vote.

(d) At the end of the 30-day period following the date the ballots are *distributed* ~~[mailed]~~, the court shall count the returned ballots. ~~[An election is valid only if at least 51 percent of the registered members of the state bar vote in the election.]~~

SECTION 7. Subchapter B, Chapter 81, Government Code, is amended by adding Sections 81.0241 and 81.0242 to read as follows:

Sec. 81.0241. ELECTRONIC TRANSMISSION OF ELECTION MATERIALS. (a) The state bar may, with the approval of the supreme court, distribute by electronic transmission ballots and related materials and receive by electronic transmission completed ballots in an election under this chapter.

(b) Before approving the distribution or receipt of ballots and related materials by electronic transmission under this section, the supreme court must be satisfied that the state bar has implemented procedures that ensure each member of the state bar will have secure access to election ballots and information.

Sec. 81.0242. PARTICIPATION IN ELECTIONS. The state bar, in the manner provided by the supreme court, shall:

(1) *promote and monitor participation of members of the state bar in elections under this chapter; and*

(2) *report statistics regarding that participation to the supreme court and the editor of the Texas Bar Journal for publication.*

SECTION 8. Section 81.026(a), Government Code, is amended to read as follows:

(a) The board may create committees, *subject to the executive committee's approval under Subchapter I*, and sections as it considers advisable and necessary to carry out the purposes of this chapter.

SECTION 9. Section 81.027(a), Government Code, is amended to read as follows:

(a) The board of directors may remove a director from the board at any regular meeting by resolution declaring the director's position vacant. *It is a ground for removal from the board that a director [if]:*

(1) *does not have at the time of taking office the applicable qualifications for office, if any;*

(2) *does not maintain during service on the board the applicable qualifications for office, if any;*

(3) *is ineligible for membership under Section 81.028 or 81.031;*

(4) cannot, because of illness or disability, discharge the director's duties for a substantial part of the director's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year without an excuse approved by a majority vote of the board ~~[the director, in the board's determination, has become incapacitated and cannot perform his duties as a director;~~

~~[(2) the director has been absent, without cause considered adequate by the board, from any two consecutive regular meetings of the board or from a total of four meetings;~~

~~[(3) the director violates a prohibition established by Section 81.028; or~~

~~[(4) the director has violated the terms or provisions of Section 81.031].~~

SECTION 10. Section 81.028, Government Code, is amended to read as follows:

Sec. 81.028. *RELATIONSHIP WITH TRADE ASSOCIATION [EMPLOYEE OR CONSULTANT].* (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board of directors and may not be a state bar employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, ~~[A member of the board of directors or an employee of the board may not be an employee]~~ or paid consultant of a Texas trade association in the field of board interest.

SECTION 11. Sections 81.029(j) and (k), Government Code, are amended to read as follows:

(j) The executive director or the executive director's designee shall prepare and maintain a written policy statement *that implements [to assure implementation of]* a program of equal employment opportunity *to ensure that [under which]* all personnel decisions ~~[transactions]~~ are made without regard to race, color, *disability [handicap]*, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, ~~[appointment,]~~ training, and promotion of personnel, *that show the intent of the state bar to avoid the unlawful employment practices described by Chapter 21, Labor Code; and*

(2) *an [a comprehensive] analysis of the extent to which the composition of the state bar's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law [state bar work force that meets federal and state guidelines;*

~~[(3) procedures by which a determination can be made of significant underuse in the state bar work force of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

~~[(4) reasonable methods to appropriately address those areas of significant underuse].~~

(k) The [A] policy statement ~~[prepared under Subsection (j)]~~ must:

(1) ~~[cover an annual period,]~~ be updated ~~[at least]~~ annually;

(2) *be reviewed by the state Commission on Human Rights for compliance with Subsection (j)(1);*~~;~~ and

(3) be filed with the supreme court and the governor's office.

SECTION 12. Subchapter B, Chapter 81, Government Code, is amended by adding Sections 81.035, 81.036, 81.037, and 81.038 to read as follows:

Sec. 81.035. *INFORMATION REGARDING REQUIREMENTS FOR OFFICE OR EMPLOYMENT.* The executive director or the executive director's designee shall provide to

members of the board of directors and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 81.036. INFORMATION ON CERTAIN COMPLAINTS. (a) The state bar shall maintain a file on each written complaint, other than a grievance against an attorney, filed with the state bar. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the state bar;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the state bar closed the file without taking action other than to investigate the complaint.

(b) The state bar shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the state bar's policies and procedures relating to complaint investigation and resolution.

(c) The state bar, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 81.037. STATE EMPLOYEE INCENTIVE PROGRAM. The executive director or the executive director's designee shall provide to state bar employees information and training on the benefits and methods of participation in the state employee incentive program under Subchapter B, Chapter 2108.

Sec. 81.038. USE OF TECHNOLOGY. The board of directors shall develop and implement a policy requiring the executive director and state bar employees to research and propose appropriate technological solutions to improve the state bar's ability to perform its functions. The technological solutions must:

- (1) ensure that the public is able to easily find information about the state bar on the Internet;
- (2) ensure that persons who want to use the state bar's services are able to:
 - (A) interact with the state bar through the Internet; and
 - (B) access any service that can be provided effectively through the Internet; and
- (3) be cost-effective and developed through the state bar's planning processes.

SECTION 13. The heading to Section 81.054, Government Code, is amended to read as follows:

Sec. 81.054. MEMBERSHIP FEES AND ADDITIONAL FEES.

SECTION 14. Section 81.054, Government Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (f)–(l) to read as follows:

(a) The supreme court shall set *membership fees and other fees* for members of the state bar. The fees, *except as provided by Subsection (j) and [other than]* those set for associate members, must be set in accordance with *this section and Section 81.024.*

(c) Fees shall be paid to the clerk of the supreme court. The clerk shall retain the fees, *other than fees collected under Subsection (j), until distributed to the state bar for expenditure under the direction of the supreme court to administer this chapter. The clerk shall retain the fees collected under Subsection (j) until distribution is approved by an order of the supreme court. In ordering that distribution, the supreme court shall order that the fees collected under Subsection (j) be remitted to the comptroller at least as frequently as quarterly. The comptroller shall credit 50 percent of the remitted fees to the credit of the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and shall credit the remaining 50 percent of the remitted fees to the fair defense account in the general revenue fund which is established under Section 71.058, to be used, subject to all requirements of Section 71.062, for demonstration or pilot projects that*

develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.

(d) Fees collected under Subsection (j) may be used only to provide basic civil legal services to the indigent and legal representation and other defense services to indigent defendants in criminal cases as provided by Subsection (c). Other fees collected under this chapter may be used only for administering the public purposes provided by this chapter.

(f) A person who is otherwise eligible to renew the person's membership may renew the membership by paying the required membership fees to the state bar on or before the due date.

(g) A person whose membership has been expired for 90 days or less may renew the membership by paying to the state bar membership fees equal to 1-½ times the normally required membership fees.

(h) A person whose membership has been expired for more than 90 days but less than one year may renew the membership by paying to the state bar membership fees equal to two times the normally required membership fees.

(i) Not later than the 30th day before the date a person's membership is scheduled to expire, the state bar shall send written notice of the impending expiration to the person at the person's last known address according to the records of the state bar.

(j) The supreme court shall set an additional legal services fee in an amount of \$65 to be paid annually by each active member of the state bar except as provided by Subsection (k). Section 81.024 does not apply to a fee set under this subsection. This subsection expires on September 1, 2007.

(k) The legal services fee shall not be assessed on any Texas attorney who:

- (1) is 70 years of age or older;*
- (2) has assumed inactive status under the rules governing the State Bar of Texas;*
- (3) is a sitting judge;*
- (4) is an employee of the state or federal government;*
- (5) is employed by a city, county, or district attorney's office and who does not have a private practice that accounts for more than 50 percent of the attorney's time;*
- (6) is employed by a 501(c)(3) nonprofit corporation and is prohibited from the outside practice of law;*
- (7) is exempt from MCLE requirements because of nonpracticing status; or*
- (8) resides out of state and does not practice law in Texas.*

(l) In this section, "indigent" has the meaning assigned by Section 51.941.

SECTION 15. The heading to Section 81.072, Government Code, is amended to read as follows:

Sec. 81.072. **GENERAL DISCIPLINARY AND DISABILITY PROCEDURES.**

SECTION 16. Section 81.072, Government Code, is amended by amending Subsections (a), (b), (e), (f), (h), and (o) and adding Subsection (e-1) to read as follows:

(a) In furtherance of the supreme court's powers to supervise the conduct of attorneys, the court shall establish disciplinary and disability procedures in addition to the procedures provided by this subchapter.

(b) The supreme court shall establish minimum standards and procedures for the attorney disciplinary and disability system. The standards and procedures for processing grievances [complaints] against attorneys must provide for:

- (1) classification of all grievances and investigation of all [inquiries and] complaints;*
- (2) a full explanation to each complainant on dismissal of an inquiry or a complaint;*
- (3) periodic preparation of abstracts of inquiries and complaints filed that, even if true, do or do not constitute misconduct;*
- (4) an information file for each grievance [complaint] filed;*

- (5) a *grievance* ~~[complaint]~~ tracking system to monitor processing of *grievances* ~~[complaints]~~ by category, method of resolution, and length of time required for resolution;
 - (6) notice by the state bar to the parties of a written *grievance* ~~[complaint]~~ filed with the state bar that the state bar has the authority to resolve of the status of the *grievance* ~~[complaint]~~, at least quarterly and until final disposition, unless the notice would jeopardize an undercover investigation;
 - (7) an *option for a trial in a district court on a complaint and an administrative system* for attorney disciplinary and disability *findings in lieu of* ~~[decisions as an option to]~~ trials in district court, including an appeal procedure *to the Board of Disciplinary Appeals and the supreme court* under the substantial evidence rule;
 - (8) an administrative system for reciprocal and compulsory discipline;
 - (9) interim suspension of an attorney posing a threat of immediate irreparable harm to a client;
 - (10) authorizing all parties to an attorney disciplinary hearing, including the complainant, to be present at all hearings at which testimony is taken and requiring notice of those hearings to be given to the complainant not later than the seventh day before the date of the hearing;
 - (11) the commission adopting rules that govern the use of private reprimands by grievance committees and that prohibit a committee:
 - (A) giving an attorney more than one private reprimand within a five-year period for a violation of the same disciplinary rule; or
 - (B) giving a private reprimand for a violation that involves a failure to return an unearned fee, a theft, or a misapplication of fiduciary property; and
 - (12) distribution of a voluntary survey to all complainants urging views on grievance system experiences.
- (e) The state bar shall establish a voluntary mediation and dispute resolution procedure to:
- (1) *attempt to resolve each allegation* ~~[that may be used as a model for resolving allegations]~~ of attorney misconduct that is:
 - (A) *classified as an inquiry under Section 81.073(a)(2)(A) because it does* ~~[do]~~ not constitute an offense cognizable under the Texas Disciplinary Rules of Professional Conduct; or
 - (B) *classified as a complaint and subsequently dismissed; and*
 - (2) *facilitate coordination with other programs administered by the state bar to address and attempt to resolve inquiries and complaints referred to the voluntary mediation and dispute resolution procedure.*
- (e-1) *All types of information, proceedings, hearing transcripts, and statements presented during the voluntary mediation and dispute resolution procedure established under Subsection (e) are confidential to the same extent the information, proceedings, transcripts, or statements would be confidential if presented to a panel of a district grievance committee.*
- (f) Responses to the survey provided for in Subsection (b)(12) may not identify either the complainant or attorney and shall be open to the public. The topics must include:
- (1) treatment by the grievance system staff and volunteers;
 - (2) the fairness of grievance procedures;
 - (3) the length of time for *grievance* ~~[complaint]~~ processing;
 - (4) disposition of the *grievance* ~~[complaint]~~; and
 - (5) suggestions for improvement of the grievance system.
- (h) The state bar or a court may not require an attorney against whom a disciplinary action has been brought to disclose information protected by the attorney-client privilege if the client did not initiate the *grievance* ~~[complaint]~~ that is the subject of the action.
- (o) Whenever a grievance is either dismissed as an inquiry or dismissed as a complaint ~~[after an investigatory hearing]~~ in accordance with the Texas Rules of Disciplinary Procedure and that dismissal has become final, the respondent attorney may thereafter deny that a

~~grievance was pursued and [- In any disciplinary action which is tried to verdict before an evidentiary panel or a district court and there is a take-nothing judgment entered which becomes final, the respondent attorney] may file a motion with the tribunal seeking expunction of all records [the tribunal's file] on the matter, [- In the event an expunction is granted, the evidentiary panel or district court shall order that all records be destroyed] other than statistical or identifying information maintained by the chief disciplinary counsel pertaining to the [any] grievance [which formed the basis of the disciplinary action and the respondent attorney may thereafter deny any grievance which formed the basis of the disciplinary action was filed].~~

SECTION 17. Subchapter E, Chapter 81, Government Code, is amended by adding Sections 81.073, 81.074, 81.075, 81.0751, 81.0752, and 81.0753 to read as follows:

Sec. 81.073. CLASSIFICATION OF GRIEVANCES. (a) The chief disciplinary counsel's office shall classify each grievance on receipt as:

(1) a complaint, if the grievance alleges conduct that, if true, constitutes professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or

(2) an inquiry, if:

(A) the grievance alleges conduct that, even if true, does not constitute professional misconduct or disability cognizable under the Texas Disciplinary Rules of Professional Conduct; or

(B) the respondent attorney is deceased, has relinquished the attorney's license to practice law in this state to avoid disciplinary action, or is not licensed to practice law in this state.

(b) A complainant may appeal the classification of a grievance as an inquiry to the Board of Disciplinary Appeals, or the complainant may amend and resubmit the grievance. An attorney against whom a grievance is filed may not appeal the classification of the grievance.

Sec. 81.074. DISPOSITION OF INQUIRIES. The chief disciplinary counsel shall:

(1) dismiss a grievance classified as an inquiry; and

(2) refer each inquiry classified under Section 81.073(a)(2)(A) and dismissed under this section to the voluntary mediation and dispute resolution procedure established under Section 81.072(e).

Sec. 81.075. DISPOSITION OF COMPLAINTS. (a) The chief disciplinary counsel shall review and investigate each grievance classified as a complaint to determine whether there is just cause, as defined by the Texas Rules of Disciplinary Procedure.

(b) After the chief disciplinary counsel reviews and investigates a complaint:

(1) if the counsel finds there is no just cause, the counsel shall place the complaint on a dismissal docket; or

(2) if the counsel finds just cause:

(A) the respondent attorney may request a trial in a district court on the complaint in accordance with the procedures adopted by the supreme court; or

(B) the counsel shall place the complaint on a hearing docket if the respondent attorney does not request a trial in a district court.

(c) A panel of a district grievance committee shall consider each complaint placed on the dismissal docket at a closed hearing without the complainant or the respondent attorney present. The panel may:

(1) approve the dismissal of the complaint and refer the complaint to the voluntary mediation and dispute resolution procedure established under Section 81.072(e); or

(2) deny the dismissal of the complaint and place the complaint on a hearing docket.

(d) A panel of a district grievance committee shall conduct a hearing on each complaint placed on the hearing docket. The commission and the respondent attorney are parties to the hearing, and the chief disciplinary counsel presents the complainant's case at the hearing. Each party may seek and the panel may issue a subpoena to compel attendance

and production of records before the panel. Each party may conduct limited discovery in general accordance with the Texas Rules of Civil Procedure as prescribed by rules of the supreme court.

(e) After conducting a hearing under Subsection (d), the panel of the district grievance committee may:

(1) dismiss the complaint and refer it to the voluntary mediation and dispute resolution procedure established under Section 81.072(e);

(2) find that the respondent attorney suffers from a disability and forward that finding to the Board of Disciplinary Appeals for referral to a district disability committee; or

(3) find that professional misconduct occurred and impose sanctions.

Sec. 81.0751. **APPEALS.** (a) The commission or a respondent attorney may appeal:

(1) a finding of a panel of a district grievance committee under Section 81.075(e) only to the Board of Disciplinary Appeals;

(2) a finding of the Board of Disciplinary Appeals to the supreme court; and

(3) a judgment of a district court as in civil cases generally.

(b) In an appeal of a finding of a panel of a district grievance committee made to the Board of Disciplinary Appeals, the board may:

(1) affirm in whole or part the panel's finding;

(2) modify the panel's finding and affirm the finding as modified;

(3) reverse in whole or part the panel's finding and enter a finding the board determines the panel should have entered; or

(4) reverse the panel's finding and remand the complaint for a rehearing to be conducted by:

(A) the panel that entered the finding; or

(B) a statewide grievance committee panel composed of members selected from the state bar districts other than the district from which the appeal was taken.

Sec. 81.0752. **CONFIDENTIALITY.** (a) All types of information, proceedings, hearing transcripts, and statements presented to a panel of a district grievance committee are confidential and may not be disclosed to any person other than the chief disciplinary counsel unless:

(1) disclosure is ordered by a court; or

(2) the panel finds that professional misconduct occurred and a sanction other than a private reprimand is imposed against the respondent attorney.

(b) If the requirements of Subsection (a)(2) are met, the panel of the district grievance committee shall, on request, make the information, proceedings, hearing transcripts, or statements available to the public.

Sec. 81.0753. **RULES REGARDING GRIEVANCES.** The supreme court shall promulgate rules regarding the classification and disposition of grievances, including rules specifying time limits for each stage of the grievance resolution process.

SECTION 18. Section 81.079, Government Code, is amended to read as follows:

Sec. 81.079. **PUBLIC NOTIFICATION AND INFORMATION.** (a) To provide information to the public relating to the attorney grievance process, the state bar shall:

(1) develop a brochure written in Spanish and English describing the bar's grievance process;

(2) establish a toll-free "800" telephone number for public access to the chief disciplinary counsel's office in Austin and list the number in telephone directories statewide;

(3) describe the bar's grievance process in the bar's telephone directory listings statewide; and

(4) make *grievance* [complaint] forms written in Spanish and English available in each county courthouse.

(b) Each attorney practicing law in this state shall provide notice to each of the attorney's clients of the existence of a grievance process by:

- (1) making *grievance* ~~[complaint]~~ brochures prepared by the state bar available at the attorney's place of business;
- (2) posting a sign prominently displayed in the attorney's place of business describing the process;
- (3) including the information on a written contract for services with the client; or
- (4) providing the information in a bill for services to the client.

SECTION 19. Section 81.113, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The state bar shall recognize, prepare, or administer continuing education programs for members of the state bar. A member of the state bar must participate in the programs to the extent required by the supreme court to maintain the person's state bar membership.

SECTION 20. Chapter 81, Government Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. EXECUTIVE COMMITTEE

Sec. 81.121. EXECUTIVE COMMITTEE. (a) The executive committee consists of:

- (1) the president, the president-elect, and the immediate past president of the state bar;*
- (2) the chair of the board of directors;*
- (3) the president of the Texas Young Lawyers Association; and*
- (4) additional members appointed by the president of the state bar.*

(b) The general counsel and executive director serve as ex officio members of the committee.

(c) The president of the state bar serves as chair of the committee. The chair of the board of directors serves as vice chair of the committee and presides over committee meetings in the committee chair's absence.

Sec. 81.122. DUTIES OF EXECUTIVE COMMITTEE. The executive committee shall:

- (1) on the recommendation of the president of the state bar, approve the creation of additional standing and special committees of the state bar in accordance with Section 81.123;*
- (2) conduct a comprehensive review of standing and special committees of the state bar at least biennially and more frequently as the executive committee determines necessary to assess whether there is:*
 - (A) a continued need for each committee; and*
 - (B) unnecessary overlap of the committees' activities; and*
- (3) perform other duties as delegated by the board of directors.*

Sec. 81.123. APPROVAL OF COMMITTEES. Before the executive committee may approve the creation of an additional standing or special committee of the state bar, the committee must:

- (1) study and determine the fiscal impact creating the committee would have on the state bar budget; and*
- (2) poll the chair of each existing committee and conduct a review to determine whether the matter to be addressed by the proposed committee could be addressed by an existing committee.*

SECTION 21. Chapter 171, Local Government Code, is amended by adding Section 171.010 to read as follows:

Sec. 171.010. PRACTICE OF LAW. (a) For purposes of this chapter, a county judge or county commissioner engaged in the private practice of law has a substantial interest in a

business entity if the official has entered a court appearance or signed court pleadings in a matter relating to that business entity.

(b) A county judge or county commissioner who has a substantial interest in a business entity as described by Subsection (a) must comply with this chapter.

(c) A judge of a constitutional county court may not enter a court appearance or sign court pleadings as an attorney in any matter before:

(1) the court over which the judge presides; or

(2) any court in this state over which the judge's court exercises appellate jurisdiction.

(d) Upon compliance with this chapter, a county judge or commissioner may practice law in the courts located in the county where the county judge or commissioner serves.

SECTION 22. Sections 81.020(e) and 81.029(l), Government Code, are repealed.

SECTION 23. Not later than January 1, 2004, the executive director of the State Bar of Texas or the executive director's designee shall prepare the written policy statement required by Section 81.029, Government Code, as amended by this Act.

SECTION 24. Not later than January 1, 2004, the supreme court shall adopt the rules and procedures required by Section 81.072, Government Code, as amended by this Act, and Section 81.0753, Government Code, as added by this Act.

SECTION 25. (a) The changes in law made by this Act in the prohibitions or qualifications applying to members of the board of directors of the State Bar of Texas do not affect the entitlement of a member serving on the board immediately before September 1, 2003, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member elected or appointed on or after September 1, 2003.

(b) Section 81.036, Government Code, as added by this Act, applies only to a complaint filed with the State Bar of Texas on or after the effective date of this Act, regardless of whether the conduct or act that is the subject of the complaint occurred or was committed before, on, or after the effective date of this Act.

(c) Section 81.054, Government Code, as amended by this Act, applies to membership fees for renewal of a membership in the State Bar of Texas that become due on or after the effective date of this Act. Membership fees for renewal of a membership that became due before the effective date of this Act are governed by the law in effect on the date the membership fees became due, and the former law is continued in effect for that purpose.

(d) Section 81.072, Government Code, as amended by this Act, and Sections 81.073, 81.074, 81.075, 81.0751, 81.0752, and 81.0753, Government Code, as added by this Act, apply to a grievance filed on or after January 1, 2004, regardless of whether the conduct or act that is the subject of the grievance occurred before, on, or after that date. A grievance filed before January 1, 2004, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 26. This Act takes effect September 1, 2003.

Passed by the House on May 6, 2003, by a non-record vote; the House concurred in Senate amendments to H.B. No. 599 on May 30, 2003, by a non-record vote; passed by the Senate, with amendments, on May 28, 2003, by a viva-voce vote.

Approved June 18, 2003.

Effective September 1, 2003.

CHAPTER 228

H.B. No. 705

AN ACT

relating to liability of in-home service companies and residential delivery companies for negligent hiring.

Be it enacted by the Legislature of the State of Texas: